

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1146 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
GUJARAT AGRICULTURAL UNIVERSITY

Versus

KANUBHAI PRATABSINH GADHVI  
-----

Appearance:

MR DG CHAUHAN for Petitioner  
MR RAMNARAIN RAI for Respondent No. 1  
-----

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 29/06/2000

ORAL JUDGEMENT

I have heard Mr. D.G. Chauhan, learned counsel appearing on behalf of the petitioner, and Dr. R.N. Rai, learned counsel appearing for the respondent workman. The respondent workman was working as

Chowkidhar in the Guest House at Ahmedabad run by Gujarat Agricultural University. The respondent was transferred from Ahmedabad to Dantiwada head office of the University from 8-1-1991, because in the night of 11-12-1990 there was an incident in the Guest House and the respondent requested the petitioner authority to protect him from attack by criminals; and considering his application the University transferred him to Dantiwada. It is the allegation of the petitioner University that he did not join Dantiwada office of the University and he remained absent after he was transferred from Ahmedabad to Dantiwada. The case of the respondent is that, in pursuance of the transfer order he went to the office of the University at Dantiwada and he met the Registrar as well as P.A. to Vice Chancellor, but no work was allotted to the respondent and therefore; he came back to Ahmedabad and moved the authority for referring the dispute before the Labour Court. The case of the respondent before the Labour Court was that, he has been terminated from service by petitioner University and he should be reinstated with full backwages in his original post at Ahmedabad. The Labour Court after taking evidence and hearing the parties, directed the University to reinstate in his original post of Chowkhidar at Ahmedabad. However the Labour Court did not pass any order regarding backwages as respondent was gainfully employed, and in view of the fact that the University had repeatedly asked him to join his post but he failed to do so. Learned counsel for the respondent submitted that the petitioner was transferred from Ahmedabad to Dantiwada at daily wage of Rs.15-00, although he was getting Rs.25/- per day while working in the Guest House at Ahmedabad. Learned counsel further submitted that when the case was pending before the Labour Court, petitioner University passed an order transferring the respondent from Dantiwada to Mehsana as daily wager at Rs.25/- per day.

2. The matter can be disposed of on the simple question of jurisdiction of the Labour Court and the manner in which the case of the respondent has been dealt with. It is an admitted fact that the petitioner was engaged as Chowkhidar on daily wage basis at the Guest House at Ahmedabad and he was transferred to Dantiwada. Respondent's case is that in pursuance of the transfer order he reported for duty at Dantiwada but he was not given any duty and therefore he left for Dantiwada. It is further admitted by the respondent that during pendency of the reference case before the Labour Court the petitioner University transferred him from Dantiwada to Mehsana on daily wage of Rs.25/- per day. Therefore

it is evident that the respondent was never terminated by the petitioner University at any point of time. The reference of the respondent before the Labour Court was that he was terminated from service from 8-1-1991, and the termination was illegal and he should therefore be reinstated in his post with backwages. It is admitted by the respondent that in pursuance of the transfer order he went to Dantiwada but he was not given any duty. It is further admitted by the respondent in his counter affidavit that while the case was pending before the Labour Court he was again transferred from Dantiwada to Mehsana by an order of the petitioner University on daily wage of Rs.25/- per day. Therefore it is evident that there was no termination of engagement of the respondent by the petitioner. Therefore, I am of the view that the Tribunal by passing order of reinstatement of the respondent to his original post has committed an illegality and acted without jurisdiction. Since the services of the respondent has never been terminated the Labour Court was wrong in exercising his jurisdiction in the present dispute. The order of the Labour Court is wholly illegal and it is apparent from face of its record. I am therefore of the view that the order of the Labour Court passed in Reference (LCA) NO. 181 of 1992 dated 29-5-1999 cannot stand and accordingly the judgment & award passed by the Labour Court, Ahmedabad in the aforesaid Reference is quashed. Present petition is accordingly allowed. Rule made absolute. I make no order as to costs.

Dt: 29-6-2000

( P.K. Sarkar, J )

/vgn